

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

WILLIAM WHITFORD, et al.,

Plaintiffs,

v.

Case No. 15CV0421

GERALD NICOL, et al.,

Defendants.

**DEFENDANTS' RESPONSE TO PLAINTIFFS'
MOTION FOR CLARIFICATION**

The defendants submit this brief in response to the plaintiffs' motion for clarification. (Dkt. 167.) The defendants did not previously object to admitting Exhibits 147, 325-B, 329, 346–352, and 354–356, and therefore do not object to the motion asking for these exhibits be formally listed as admitted. (Dkt. 159.)

With respect to the remaining exhibits addressed in the plaintiffs' motion for clarification, the following list reflects any limitations the Court placed on the exhibits' admission as well as the defendants' objections to their admission.

- **Ex. 357.** The Court admitted this exhibit over the defendants' objection at trial. (Dkt. 148:123.) The Court allowed its admission for the limited purpose of "[t]he effect on the leadership." (Dkt. 148:123.) The

defendants maintain their objection. The defendants note that the plaintiffs did not call a member of the leadership to testify, so there is no proper use for this exhibit, and it should not be considered.

- **Ex. 470.** The Court admitted this exhibit at trial, although the defendants objected because the exhibit was not timely disclosed under the Court's pretrial order. (Dkt. 148:39.) The defendants do not object to the record reflecting the Court's ruling, but maintain their objection.
- **Exs. 475–481.** The Court admitted these exhibits at trial, although the defendants objected because the exhibits were not timely disclosed under the Court's pretrial order's schedule. (Dkt. 148:4.) The defendants do not object to the record reflecting the Court's ruling, but maintain their objection.
- **Ex. 485.** The Court admitted this exhibit, but only for a limited purpose—to the extent it reflects “stipulated data.” (Dkt. 147:88–89.) The defendants objected that the spreadsheet testimony was not based on the personal knowledge of the testifying witness, Adam Foltz, and maintain that objection. (Dkt. 147:88.)

The defendants maintain their previous objections to these exhibits, but do not object to the record reflecting the Court's ruling about the admission of the exhibits, subject to any limitations the Court placed on their admission.

Dated this 16th day of December, 2016.

Respectfully submitted,

BRAD D. SCHIMEL
Wisconsin Attorney General

/s/Brian P. Keenan
BRIAN P. KEENAN
Assistant Attorney General
State Bar #1056525

Attorneys for Defendants

Wisconsin Department of Justice
Post Office Box 7857
Madison, Wisconsin 53707-7857
(608) 266-0020
(608) 267-2223 (Fax)
keenanbp@doj.state.wi.us